

Legal Visitation Orders, Family Courts, and Fragile Families

Background: Although one out of two unmarried parents is living together at the time of their child's birth, nearly two-thirds are living apart by the time their child is age five (McLanahan, 2009). There is growing attention to the new challenges faced by family courts in serving unmarried parents who have separated (Insabella et al., 2003), and recent proposals at the federal level could significantly increase the number of parents who are seeking legal parenting time agreements in such circumstances. Most notably, the Obama administration's Child Support and Fatherhood Initiative would require states to establish legal access and visitation responsibilities in all initial child support orders by 2019. The statutory purposes of the child support program would also be revised to encourage parents not only to support but to *cooperate* to care for their children. It is estimated that one-quarter of the nation's children now participate in the child support program, many of whom are living in families formed outside of marriage. Because it is much more likely for unmarried parents to have a child support order than a legal visitation agreement in place, this proposal could have major implications for unmarried parents and their children. However, the research base for understanding how unmarried parents view parenting time agreements and which parents are most likely to establish a legal visitation order is extremely limited (Osborne, et al, 2014).

Research aims: This paper uses a mixed method analysis to examine the meaning and correlates of legal visitation orders in fragile families. First, I analyze data from focus groups and interviews (n=60) I conducted with low-income unmarried mothers and fathers living in New York to examine their perceptions of engaging the legal system to establish visitation orders. Preliminary findings suggest that parents with conflicted relationships may be more likely to establish visitation agreements than parents who cooperate to evade the legal system or disengage from the system. Second, this analysis draws on information from unmarried parents living apart in the Fragile Families Survey with a child support order (n=1,024) to examine how coparenting quality and other key factors identified in the qualitative study are associated with parents establishing legal visitation orders for their children by age 5.

Previous research: New proposals at the federal level to improve access and visitation are informed by research indicating a correlation between father's contact with children and child support payments (Nepomnyaschy, 2007). While these policies are intended to facilitate cooperation between parents, most states do not allow child support and visitation cases to be heard together, because of concerns that parents in separated families could withhold money or time with children to retaliate against each other. Studies of divorce have documented how the adversarial nature of the legal system can exacerbate parental conflict during divorce, to the detriment of children's well-being (Pruett & Pruett, 1998; Pruett, Insabella, & Gustafson, 2005). Other studies have found that some low-income, unmarried parents chose not to participate in the legal child support system because they believe it will undermine cooperation and exacerbate conflict in their coparenting relationships (e.g., Edin & Lein, 1997; Waller & Plotnick, 2001). However, unmarried parents' views of establishing a legal visitation order, and how this process could impact their family relationships, have been little investigated. Moreover, we have limited information about the characteristics or circumstances of parents who chose to establish these agreements. Much of what we know about parenting time agreements comes from court-based samples of parents filing for divorce. In addition to excluding unmarried parents, information

about coparenting and key socio-economic factors is often not available in these administrative data (Cancian, et al., 2014).

Research methods: This study uses a mixed method approach which follows Greene, et al.'s (1989) definition of a development design. In this study, the qualitative data will help identify and measure key predictors to be included in the regression models. Integration of the qualitative and quantitative data will occur during the analysis and interpretation.

Qualitative data. The qualitative analysis draws on data from four focus groups I conducted with 40 low-income, unmarried mothers (n=21) and fathers (n=19) living in two New York counties. Two of these groups were primarily White, and two were primarily African-American, reflecting the race-ethnic composition of the county in which they took place. To make the sample comparable with the population of unmarried parents participating in the child support program, eligibility for study was limited to parents who: 1) were never married to the other parent of at least one child, 2) were currently living apart from the other parent; and 3) had household incomes less than 185% of the FPL. Each group was also stratified by whether or not they had not engaged the legal system to establish custody and visitation agreements. These data are also supplemented with in-depth interviews I conducted with unmarried mothers and fathers who entered family court for child support petitions in New York's Sixth Judicial District. Mothers and fathers were interviewed in a private room in family court, and interviews lasted about 45-60 minutes. All interviews were recorded and transcribed for data analysis.

Qualitative data analysis: I used Atlas ti to facilitate the three basic steps of *qualitative data analysis*: coding the data, writing analytical memos, and creating visual displays (e.g. Weiss, 1994). Codes were developed inductively, on the basis of observations that emerge from the interviews and by using sensitizing concepts drawn from previous research. I began with line-by-line coding using the open coding tool in Atlas. The analysis next proceeded to more focused, analytic coding by grouping open codes into Atlas "code families." Coded segments of text were first sorted around specific themes through a process referred to as local integration. Both analytical memos and visual displays were used to help identify and analyze patterns in the data. The last stage of the analysis will involve inclusive integration in which locally integrated themes are brought together in a larger, explanatory framework (Weiss, 1994).

Preliminary findings: Three general orientations to legal visitation orders were identified in the focus group and individual interviews: 1) *Conflicted orientations* pitted the rights of mothers against fathers in the legal system; 2) *Cooperation* involved the mother and father colluding with each other to avoid legal visitation orders that could undermine their co-parenting relationship; and 3) *Disengagement* involved the mother or fathers disconnecting from the legal system particularly in situations of substance use, domestic violence, and previous incarceration.

Hypotheses: On the basis of this preliminary qualitative analysis, I would expect unmarried parents with either cooperative or disengaged coparenting relationships to be less likely to establish legal visitation orders than those with conflicted relationships.

Survey data: To test these hypotheses in a larger population of unmarried parents, the paper also analyzes quantitative data from 1,024 parents in the Fragile Families Study. The analytical sample is comprised of parents who were: 1) unmarried at the time of their child's birth; 2) living

apart; and 3) have a child support order at the time their child is age 5. Data for the Fragile Families survey were collected in 20 U.S. cities, and the weighted data are representative of births occurring in U.S. cities with populations over 200,000 between 1998 and 2000. Surveys with both parents were initially conducted when their child was born, and follow-up interviews with both parents took place when their child was one, three, five, and nine.

Survey measures: The quantitative analysis estimates logistic regression models where legal visitation orders at Year 5 are a function of: 1) cooperation, conflict and disengagement between parents; 2) parental risk factors that may influence the likelihood of seeking visitation; 3) the length of time since separation; and 4) parent, child and couple characteristics. In the Fragile Families Study, parents with a child support order were asked if they had established a legal agreement that specifies visits at each follow-up wave. A dichotomous measure is used to indicate whether they had established a *legal visitation order* by the time their child was age 5. *Cooperative parenting* is examined through a series of questions which ask whether the other parent respect the schedules and rules they make for the child, whether feel supported in the way they want to raise their child, whether the parents talk about problems that come up with raising their child, whether they can trust the other parent to take good care of the child, and whether they can count on the other parent for help with the child. Scores on this indexes range from 1 to 3, with a *Cronbach's alpha* of .89. *Conflict* in the relationship is captured by a continuous variable ask how often parents argue about things important to them (range=1 to 5). These indicators will be used to create measures of cooperative (high cooperation, low conflict), disengaged (low cooperation, low conflict), conflicted (low cooperation, high conflict), and mixed (hi cooperation, high conflict) parenting (Maccoby & Mnookin, 1992).

Risk factors: The survey also measures several parental risk factors that may be negatively related to establishing visitation orders. *Intimate partner violence* indicates whether the mother reported experiencing physical violence from the father (i.e., being slapped or kicked, hit with an object, pushed/shoved or grabbed, or being hurt in a fight with him). The Fragile Families project coded fathers as having *ever been incarcerated* if either parent reported that the father had spent time in jail or prison. Parents were also asked to report their own *drug use* and *major depressive symptoms*, ranging from 0 (no symptoms) to 8 (severe clinical depression). *Controls:* The length of time since separation is based on information parents report at each wave about the status of their relationship and the date their relationship ended. Parents were also asked to report if they had *multiple children together*, and whether they had children with a different partner (*multi-partner fertility*). Measures of parents' race-ethnic, age, educational, employment, and earnings characteristics and child gender and temperament will also be included in the analysis.

Survey data analysis: The analysis estimates logistic regression models where legal visitation at Year 5 is a function of: 1) cooperative, conflicted and disengaged parenting; 2) parental risk factors; 3) the length of time since separation; and 4) parent, child and couple characteristics. Preliminary descriptive results show that about 30% of unmarried parents with a child support order also had a legal visitation agreement by Year 5. In simple bivariate models, having a legal visitation order was associated with lower levels of cooperative parenting at years 3 and 5. Although the aim of this analysis is primarily descriptive, I will also use cross-lagged regression models to examine whether there is a reciprocal relationship between cooperative coparenting and establishing a legal visitation order (Nepomnyaschy, 2007).

Discussion: Preliminary results suggest that unmarried parents living apart who have conflicted coparenting relationships perceive greater benefits to establishing legal visitation agreements than do parents who are able to cooperate with each other outside of the legal system or who have disengaged from this system. Using national survey data, we also find that unmarried parents living apart who had less cooperative coparenting relationships were more likely to establish legal visitation agreements within five years of their child's birth. The results of this study may provide insight into unmarried parents' willingness to participate in federal efforts to establish parenting time agreements in child support cases and court-based initiatives designed to support visitation, including mediation, the development of parenting plans, parenting education, and supervised visitation. Results may also inform new efforts by problem-solving courts which take a more collaborative and preventive approach to helping disadvantaged, fragile families in the family court system.

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